

REMARKS

Claims 22-81 are pending in the Application and all have been rejected in the Office action mailed February 3, 2011. No claims are amended by this response. Claims 22, 28, 29, 36, 43, 47, 51 and 60 are independent claims. Claims 23-27 and 74, claim 75, claims 30-35 and 76, claims 37-42 and 77, claims 44-46 and 78, claims 48-50 and 79, claims 52-59 and 80, and claims 61-73 and 81 depend, respectively, from independent claims 22, 28, 29, 36, 43, 47, 51, and 60. The Applicants respectfully request reconsideration of pending claims 22-81, in light of the following remarks.

The Applicants note that a goal of patent examination is to provide a prompt and complete examination of a patent application.

It is **essential** that patent applicants obtain a prompt yet complete examination of their applications. Under the principles of compact prosecution, each claim should be reviewed for compliance with every statutory requirement for patentability in the initial review of the application, even if one or more claims are found to be deficient with respect to some statutory requirement. Thus, USPTO personnel should state all reasons and bases for rejecting claims in the first Office action. Deficiencies should be explained clearly, particularly when they serve as a basis for a rejection. Whenever practicable, USPTO personnel should indicate how rejections may be overcome and how problems may be resolved. **A failure to follow this approach can lead to unnecessary delays in the prosecution of the application.**

M.P.E.P. § 2106(II) (emphasis added).

As such, the Applicants assume, based on the goals of patent examination noted above, that the **current** Office Action sets forth “**all** reasons and bases” for rejecting the claims.

As noted above, no claims are amended by this submission. Therefore, Applicants respectfully submit that no new issues are raised that necessitate a new search.

Appln. No. 10/701,865
Filed: November 5, 2003
Reply to Office action mailed February 3, 2011
Amendment filed May 3, 2011

Applicants also respectfully submit that no claims were substantively amended in the response filed June 1, 2010, which responded to the Office action of February 1, 2010, nor were any claims amended in the response filed November 17, 2010, which responded to the Office action of August 17, 2010.

Further, Applicants further respectfully note that the Office did not respond to Applicants' arguments of November 17, 2010, with the exception of the single paragraph on page 2 that mentions only Fuller in the text of small excerpts from Applicants' arguments, and which does not actually respond to Applicants' arguments except to refer Applicants to the newly cited Bonnaure reference. In addition, no mention at all is made to the rejections of claims 60-73, the rejections of which did not involve Fuller.

Applicants respectfully note that M.P.E.P. §707.07(f) states the following:

In order to provide a complete application file history and to enhance the clarity of the prosecution history record, an examiner must provide clear explanations of all actions taken by the examiner during prosecution of an application.

* * *

Where the applicant traverses any rejection, the examiner should, if he or she repeats the rejection, take note of the applicant's argument and answer the substance of it.

Thus, **Applicants respectfully request that the Examiner answer the substance of Applicants' arguments, not merely restate a portion of the related rejection, should the Office maintain any of the rejections of the instant Office action.** Failure to provide such information needlessly extends prosecution, and fails to provide a full history of actions of the Office for later review by the Board of Patent Appeals and Interferences.

Rejections of Claims

Claims 22, 25, 26, 28, 29, 32-34, 36, 39, 40, 41, 47, 50, and 57-59 were rejected under 35 U.S.C. §103(a) as being unpatentable over Berken (WO 91/08629) in view of Richter, *et al.* (US 6,104,706, hereinafter "Richter'706") and Bonnaure, *et al.* (US 5,862,339, hereinafter "Bonnaure"). Claims 43 and 46 were rejected under 35 U.S.C. §103(a) as being unpatentable over Berken in view of Richter'706, Bonnaure, and Harrison (US 5,796,727). Claims 27, 35, and 42 were rejected under 35 U.S.C. §103(a) as being unpatentable over Berken in view of Richter'706, Bonnaure, and Weaver *et al.* (US 5,956,673, hereinafter "Weaver"). Claims 51 and 54 were rejected under 35 U.S.C. §103(a) as being unpatentable over Berken in view of Richter'706, Bonnaure, and Weaver. Claims 23, 24, 30, 31, 37, 38, 48, and 49 were rejected under 35 U.S.C. §103(a) as being unpatentable over Berken in view of Richter'706, Bonnaure, and Perkins (US 5,159,592). Claims 44 and 45 were rejected under 35 U.S.C. §103(a) as being unpatentable over Berken, Richter'706, Bonnaure, Harrison, and Perkins. Claims 52 and 53 were rejected under 35 U.S.C. §103(a) as being unpatentable over Berken, Richter'706, Bonnaure, Weaver, and Perkins. Claims 55 and 56 were rejected under 35 U.S.C. §103(a) as being unpatentable over Berken, Richter'706, Bonnaure, and Cripps (US 5,838,730). Claims 74-77 and 79 were rejected under 35 U.S.C. §103(a) as being unpatentable over Berken, Richter'706, Bonnaure, and Dezonno (US 5,991,394). Claim 78 was rejected under 35 U.S.C. §103(a) as being unpatentable over Berken, Richter'706, Bonnaure, Harrison, and Dezonno. Claim 80 was rejected under 35 U.S.C. §103(a) as being unpatentable over Berken, Richter'706, Bonnaure, Weaver, and Dezonno.

Claims 60-62 and 68-73 were rejected under 35 U.S.C. §103(a) as being unpatentable over Berken in view of Hutton, *et al.* (US 6,108,704, hereinafter "Hutton"), and further in view of Reimer, *et al.* (US 4,704,696, hereinafter "Reimer"). Claims 63-65 were rejected under 35 U.S.C. §103(a) as being unpatentable over Berken, Hutton, and Reimer, in further view of Lewen, *et al.* (US 5,341,374, hereinafter "Lewen"). Claim 66 was rejected under 35 U.S.C. §103(a) as being unpatentable over Berken, Hutton,

Reimer, and Lewen, in further view of McKee, *et al.* (US 5,477,531, hereinafter "McKee"). Claim 67 was rejected under 35 U.S.C. §103(a) as being unpatentable over Berken, Hutton, and Reimer, in further view of Cripps (US 5,838,730). Claim 81 was rejected under 35 U.S.C. §103(a) as being unpatentable over Berken, Hutton, and Reimer, in further view of Dezonno. Applicants respectfully traverse the rejections.

Applicants respectfully note that all of the rejections are for alleged reasons of obviousness.

Applicants first review the requirements for an obviousness rejection. According to M.P.E.P. §2142, "[t]he examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness." (emphasis added) M.P.E.P. §2142 further states that "[t]he key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious." (emphasis added) As recognized in M.P.E.P. §2142, "[t]he Supreme Court in *KSR International Co. v. Teleflex Inc.*, 127 S. Ct. 1727 (2007), 82 USPQ2d 1385, 1396 noted that **the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit.**" (emphasis added) In addition, the Federal Circuit has made clear that **"rejections on obviousness cannot be sustained with mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness."** *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006). See also *KSR*, 127 S. Ct. 1727 (2007), 82 USPQ2d at 1396. (emphasis added)

In addition, as noted in the Manual of Patent Examining Procedure (Revision 8, July 2010), **"[a]ll words in a claim** must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA)." See *id.*

Thus, the law is clear that words of a claim cannot be merely disregarded during examination. Instead, all the words in a claim must be considered during the examination process.

Before addressing the rejections, Applicants respectfully note that the Office states that "Applicant's arguments filed 11/17/10 have been fully considered but they are not persuasive. See Office action at page 2. Applicants respectfully submit that the Office seemingly contradicts this statement, in that the Office no longer cites Fuller, and instead now relies, in part, on newly cited Bonnaure. For at least this reason, it is clear that something in Applicants' arguments was persuasive, contrary to the assertion by the Office, in order to lead the Office to conclude that a change in reference, not required by any amendment by the Applicants, was needed to support the rejections.

Applicants respectfully submit that the Office action has failed to establish a *prima facie* case of obviousness with respect to any of claims 22-81, in accordance with M.P.E.P. §2142 and M.P.E.P. §2143.03, and respectfully traverse the rejections for the reasons set forth during prosecution, and those that follow.

I. The Proposed Combination Of Berken, Richter'706, And Bonnaure Does Not Render Claims 22, 25, 26, 28, 29, 32-34, 36, 39, 40, 41, 47, 50, And 57-59 Unpatentable

Claims 22, 25, 26, 28, 29, 32-34, 36, 39, 40, 41, 47, 50, and 57-59 were rejected under 35 U.S.C. §103(a) as being unpatentable over Berken in view of Richter'706 and Bonnaure. Applicants respectfully traverse the rejection.

As an initial matter, Applicants respectfully note that the response by the Office to Applicants' arguments of November 17, 2010 states, in its entirety:

Applicant's arguments filed 11/17/10 have been fully considered but they are not persuasive. Please see response below:

In response to applicant argument, the Office asserts that Fuller teaches "call is branched out to PSTN or packet." However, the portion of Fuller shown above, specifically chosen by the Office, makes no mention of a "packet," or of

a "packet-based network," or of "a user selected one of a circuit switched network and a packet-based network," let alone Applicants' claimed "database for use in voice call routing to cause delivery of voice to a called party by a user selected one of a circuit switched network and a packet-based network," as recited by claim 22. Further, the Office has not identified where Fuller supports the assertion by the Office that a "call is branched out to PSTN or packet [network]." The cited portions of Fuller do not provide the support required by M.P.E.P. §2142 for such an assertion. (Please see newly cited reference Bonnaure et al. disclose packet/circuit switching user defined calls).

Notably, the purported "Response to Arguments" shown above is simply a collection of portions of Applicants' arguments regarding only Fuller, and does not provide support for the prior rejection based on Fuller, nor does it explain why Applicants' argument "are not persuasive."

In addition, Applicants respectfully submit that the Office response focuses only on Fuller, and does not even attempt to rebut Applicants' arguments with respect to the Berken and Richter references, nor with respect to, for example, the Dezonno reference, but now introduces a new reference, Bonnaure, to replace Fuller, the Office now seemingly admitting that Fuller fails to teach what was alleged by the Office action of August 17, 2010.

The Office then asserts the rejection of claims 22, 25, 26, 28, 29, 32-34, 36, 39, 40, 41, 47, 50, and 57-59 under 35 U.S.C. §103(a) over Berken, Richter'706, and Bonnaure. Applicants respectfully submit that the arguments addressing the alleged teachings of Berken and Richter'706 that appear on pages 3-7 of the instant Office action are the same arguments presented in the Office action of February 1, 2010. Compare February 3, 2011 Office action at pages 3-7; August 17, 2010 Office action at pages 3-7; and February 1, 2010 Office action at pages 15-18. The Office has yet to address those arguments set forth with respect to Berken and Richter'706.

Applicants respectfully submit that Applicants have addressed those arguments during prosecution, most recently in the response filed June 1, 2010, and will not repeat

the text of Applicants' response of June 1, 2010 again here. Instead, Applicants hereby incorporate the response of June 1, 2010 herein as though set forth in full. Again, Applicants respectfully note that the substance of those repeated arguments was not addressed by the Office, as required by M.P.E.P. §707.07(f).

Therefore, Applicants respectfully submit that the Office again fails to address the substance of Applicants' response to the repeated rejections over the proposed combination of Berken and Richter'706. Further, Applicants respectfully submit that, by introducing the Bonnaure reference, the Office again admits that the proposed combination of Berken and Richter'706 does not teach the subject matter of Applicants' claims 22, 25, 26, 28, 29, 32-34, 36, 39, 40, 41, 47, 50, and 57-59 for which the Office now turns to Bonnaure.

With regard to independent claim 22, Applicants respectfully submit that claim 22 recites, in part, "a database having at least one entry comprising user defined call routing information and at least one associated destination address, the database for use in voice call routing to cause delivery of voice to a called party by a user selected one of a circuit switched network and a packet-based network according to a destination address of the called party and the database." Independent claims 28, 29, 36, and 47 recite similar language. Applicants respectfully submit that the cited art does not teach, suggest, or disclose all above aspects of Applicants' claim 22 and, therefore, does not render claim 22 unpatentable.

Applicants appreciate recognition by the Office that the proposed combination of Berken and Richter'706 fails to disclose, at least, "a database having at least one entry comprising user defined call routing information and at least one associated destination address, the database for use in voice call routing to cause delivery of voice to a called party by a user selected one of a circuit switched network and a packet-based network according to a destination address of the called party and the database." See February 3, 2011 Office action at page 7.

The Office, however, then mistakenly relies upon Bonnaure, stating in part, the following, at pages 7-8:

However, Bonnaure et al. from a similar field of endeavor disclose a database having at least one entry comprising user defined call routing information (see Figure 17 (1734); customer criteria list) and at least one associated destination address, the database for use in voice call routing to cause delivery of voice to a called party by a user selected one of a circuit switched network and a packet based network according to a destination address of the called party and the database (see column 3 lines 2-8, column 4 lines 36-42). Thus, it would have been obvious to one ordinary skill in the art at the time of invention was made to include Bonnaure et al. database scheme into Berken and Richter transmission scheme. The method can be implemented in a database. The motivation of doing this is to schedule calls based on user defined parameters..

Thus, the Office asserts that all aspects of Applicants' claimed "database" recited by claim 22 are taught by the FIG. 17, ref. 1734, col. 3, lines 2-8, and col. 4, lines 36-42. Applicants respectfully disagree that Bonnaure teaches all aspects of claim 22 admittedly missing from Berkin and Richter'706. Further, the Office fails to provide the "explicit analysis" required by M.P.E.P. §2142, explaining how the Office is interpreting the cited portions of Bonnaure as teaching what is alleged. The Office asserts that "it would have been obvious to one of ordinary skill in the art at the time of the invention was made to include Bonnaure et al. database scheme into Berken and Richter transmission scheme." **The Office fails to provide any reasoning to explain one of ordinary skill in the art would be drawn to make such a combination, and why such a combination would be obvious.** Without supporting reasoning, such an assertion is simply a conclusory statement. As Applicants have noted above, the Federal Circuit has made clear that "**rejections on obviousness cannot be sustained with mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.**" Instead, the Office merely presents Applicants' claim text with citations to Bonnaure inserted, without explanation of any kind. Applicants respectfully submit that claim 22 is allowable for at least this reason alone.

Applicants now review Bonnaure at cited col. 3, lines 2-8, which is shown below underlined in context:

A database central routing device is provided for routing incoming access requests for internet access among a variety of on-line service providers. The device generally includes a central server having a list of algorithms pertaining to access phone numbers of internet access providers to be chosen from. The central routing device further includes an automatic phone number identifier to identify incoming calls in order to identify the user as a customer. An algorithm generator is also included in order to download algorithms pertaining to particular phone numbers in order to give the user access to a variety of internet access providers. The central routing device allows the user to select from a number of internet access providers depending on the availability of the providers. Factors such as time of day, consistent peak and off peak hours of any particular provider, the time of access, the type of user such as consumer or business user, and other factors in order to make efficient use of a variety of internet access providers.

The cited portion of Bonnaure reproduced above explains that a “database central routing device” routes “incoming access requests” among a variety of “on-line service providers.” Such a device includes a “central server” having a “list of algorithms” pertaining to “access phone numbers” of “Internet access providers,” an “automatic phone number identifier” to identify incoming calls, and an “algorithm generator” in order to download “algorithms pertaining to particular phone numbers.” The “database central routing device” permits a user to select from a number of Internet access providers, depending on their availability. A number of factors are used to make efficient use of the Internet access providers. In other words, the invention of Bonnaure is related to routing of “**access requests**,” notably not “voice calls,” among a plurality of “on-line service providers.”

Although the portion of Bonnaure shown above does mention a “database,” neither the cited portion of Bonnaure at col. 3, lines 2-8, nor the surrounding context, provides any details of the “database,” or makes any mention of ref. 1734 of FIG. 17,

which was seemingly identified by the Office as teaching Applicants' claimed "database." Bonnaure identifies as "customer criteria list 1734". See *id.* at col. 8, lines 61-62. Applicants respectfully submit that Bonnaure at col. 3, lines 2-8 fails to provide any teaching of the database having at least one entry comprising "user defined call routing information" and "at least one associated destination address," aspects of claim 22 admittedly missing from Berken and Richter'706. Therefore, Applicants respectfully submit that cited col. 3, lines 2-8 of Bonnaure do not teach, suggest, or disclose Applicants' claimed "database," or the actions involving such a "database." Applicants now address Bonnaure at col. 4, lines 36-42, which are reproduced below, underlined in context:

In the preferred embodiment and in the description that follows, the present invention is described in the context of several different types of networks or portions of a network. Specifically, the following definitions clarify the different network types in which the preferred embodiment operates. These different network types include: the conventional POTS telephone network, the Internet network, World Wide Web (WWW) network, and the WebTV network. The POTS telephone network is a switched-circuit network that connects a client to a point of presence (POP) node or directly to a private server. The POP node and the private server connect the client to the Internet network, which is a packet-switched network using a transmission control protocol/Internet protocol (TCP/IP). The World Wide Web (WWW) network uses a hypertext transfer protocol (HTTP) and is implemented within the Internet network and supported by hypertext mark-up language (HTML) servers. The WebTV network uses an HTTP-based set of protocols implemented within the WWW network and supported by one or more HTML servers.

The cited portion of Bonnaure shown above simply explains that the invention of Bonnaure operates in a number of different types of networks, and provides some additional information about some of those example networks. Applicants respectfully submit that neither the cited portion of Bonnaure at col. 4, lines 36-42, nor the surrounding context, however, teaches, suggests, or discloses anything about a

“database,” of any details of an “entry” in such a “database,” let alone that an “entry” comprises “user defined call routing information” **and** “at least one associated destination address.” The portion of Bonnaure shown above, which was cited by the Office, also fails to make any mention of “customer criteria list 1734” or to teach, suggest, or disclose use of such a “database” in “voice call routing to cause delivery of voice to a called party by a user selected one of a circuit switched network and a packet-based network according to a **destination address of the called party and the database**,” as claimed. In addition, the cited portion of Bonnaure fails to teach, suggest, or disclose that the “customer criteria list 1734” is defined by a “user.” Therefore, Applicants respectfully submit that cited col. 4, lines 36-42 of Bonnaure does not teach, suggest, or disclose Applicants’ claimed “database,” or the actions involving such a “database,” in accordance with claim 22.

Applicants respectfully note that the “customer criteria list 1734” of FIG. 17, which was specifically identified by the Office, fails to teach, suggest, or disclose an entry of a database, let alone where the entry comprises “user defined call routing information” **and** “at least one associated destination address,” for use in “voice call routing to cause delivery of voice to a called party by a user selected one of a circuit switched network and a packet-based network according to a **destination address of the called party and the database**,” as claimed. Further, the Office has failed to provide any evidence showing that the “customer criteria list 1734” is defined by a “user.”

Applicants respectfully submit that although the Office chose to identify the “customer criteria list 1734” of FIG. 17 as seemingly teaching Applicants’ claimed “database,” the Office for some reason fails to make any reference to text from Bonnaure that discusses or describes cited FIG. 17. Applicants respectfully submit that Bonnaure discusses FIG. 17 at col. 17, line 51 to col. 18, line 12. Bonnaure states that “[t]he central access server 1724 keeps data list 1730 containing information on internet access provider phone list 1732 and customer criteria list 1734.” *Id.* at col. 17, lines 59-62. Bonnaure goes on to say that “[c]ustomer/user criteria such as time of day of the request, day of the week, holidays, occurrence of busy signals among access providers, accumulated or projected connect time, quality of access, reliability of performance and

other criteria are used to find a compatible access provider for a given customer.” (emphasis added) *Id.* at col. 17, line 65 to col. 18, line 3. Applicants respectfully submit that Bonnaure does not teach, suggest, or disclose that such “criteria” are “routing information” for routing voice calls, and instead teaches that the “database central routing device” routes “**access requests**” for Internet access. *Id.* at Abstract. Applicants respectfully submit that routing of “access requests” for Internet access to a “service provider” are quite different from, and do not teach, suggest, or disclose routing of “voice calls.” In addition, Applicants respectfully submit, as noted above, that the Office has not shown how and why Bonnaure teaches that the “customer/user criteria” are “user defined.” Indeed, Bonnaure is silent with regard to a user defining the “customer criteria,” and the Office fails to show support to explain/demonstrate that the user has anything to do with the definition of any of the “customer/user criteria” of Bonnaure. Therefore, for at least these reasons, Applicants respectfully submit that Bonnaure does not remedy the admitted deficiencies of Berken and Richter’706.

Based at least upon the above, Applicants respectfully submit that Bonnaure does not teach, suggest, or disclose, at least, “a database having at least one entry comprising user defined call routing information and at least one associated destination address, the database for use in voice call routing to cause delivery of voice to a called party by a user selected one of a circuit switched network and a packet-based network according to a destination address of the called party and the database.” In view of the admission by the Office that the proposed combination of Berken and Richter’706 also does not disclose at least these features of claim 22, and therefore that none of Berken, Richter’706, and Bonnaure disclose at least these features of claim 22, it necessarily follows that the proposed combination of Berken, Richter’706, and Bonnaure cannot, by definition, teach, suggest, or disclose at least these aspects of claim 22. Applicants respectfully submit that claims 23-27 and 74 depend from independent claim 22 and are therefore also allowable over Berken and Richter’706. Accordingly, Applicants respectfully request that the rejection of claims 22, 25, and 26 under 35 U.S.C. §103(a) be reconsidered and withdrawn.

With respect to independent claims 29 and 36, Applicants respectfully submit that those claims were rejected over the same proposed combination of Berken, Richter'706, and Bonnaure, citing the same portions of the references using the same arguments set forth in the rejection of claim 22, and are therefore also allowable over the proposed combination of Berken, Richter'706, and Bonnaure for at least the reasons set forth above. Further, because claims 30-35 and 76 depend from allowable claim 29, and claims 37-42 and 77 depend from allowable claim 36, Applicants respectfully submit that those claims are also allowable over the cited art, for at least the same reasons.

Applicants respectfully note that the Office seemingly asserts that the combination of Berken and Richter'706 teaches (1) "comparing, by the communication device, a destination address to a database having at least one entry comprising user defined call routing information and at least one associated destination address, the database for use in voice call routing to cause delivery of voice to a called party by a user selected one of a circuit switched network and a packet-based network according to a destination address of the called party and the database." See, e.g., Office action at page 6. Applicants respectfully submit, however, that the Office has admitted that the combination of Berken and Richter'706 does not disclose (2) "a database having at least one entry comprising user defined call routing information and at least one associated destination address, the database for use in voice call routing to cause delivery of voice to a called party by a user selected one of a circuit switched network and a packet-based network according to a destination address of the called party and the database." See Office action at page 7. Applicants respectfully submit that it cannot be true that the combination of Berken and Richter'706 fails to teach (2), but then somehow teaches (1), because (2) is part of (1). Therefore, Applicants respectfully request that the Office omit such erroneous assertions from any future rejections.

With respect to independent claims 28 and 47, Applicants respectfully submit that those claims were also rejected over the same proposed combination of Berken, Richter'706, and Bonnaure, citing the same portions of the references using the same arguments set forth by the rejection of claim 22, and are therefore also allowable over

the proposed combination of Berken, Richter'706, and Bonnaure for at least the reasons set forth above. Further, because claim 75 depends from allowable claim 28 and claims 48-50 and 79 depend from allowable claim 47, Applicants respectfully submit that those claims are also allowable over the cited art, for at least the same reasons.

Based at least upon the above, Applicants respectfully request that the rejections of claims 28, 29, 32-34, 36, 39, 40, 41, 47, 50, and 57-59 under 35 U.S.C. §103(a) be reconsidered and withdrawn.

II. Berken, Richter'706, And Bonnaure In Combination With Any Of Harrison, Weaver, Perkins, Cripps, And Dezonno Do Not Render Claims 23, 24, 27, 30, 31, 35, 37, 38, 42-46, 48, 49, 51-56, 74-80 Unpatentable

Claims 43 and 46 were rejected under 35 U.S.C. §103(a) as being unpatentable over Berken in view of Richter'706, Bonnaure, and Harrison. Claims 27, 35, 42, 51, and 54 were rejected under 35 U.S.C. §103(a) as being unpatentable over Berken in view of Richter'706, Bonnaure, and Weaver. Claims 23, 24, 30, 31, 37, 38, 48, and 49 were rejected under 35 U.S.C. §103(a) as being unpatentable over Berken in view of Richter'706, Bonnaure, and Perkins. Claims 44 and 45 were rejected under 35 U.S.C. §103(a) as being unpatentable over Berken, Richter'706, Bonnaure, Harrison, and Perkins. Claims 52 and 53 were rejected under 35 U.S.C. §103(a) as being unpatentable over Berken, Richter'706, Bonnaure, Weaver, and Perkins. Claims 55 and 56 were rejected under 35 U.S.C. §103(a) as being unpatentable over Berken, Richter'706, Bonnaure, and Cripps. Claims 74-77 and 79 were rejected under 35 U.S.C. §103(a) as being unpatentable over Berken, Richter'706, Bonnaure, and Dezonno. Claim 78 was rejected under 35 U.S.C. §103(a) as being unpatentable over Berken, Richter'706, Bonnaure, Harrison, and Dezonno. Claim 80 was rejected under 35 U.S.C. §103(a) as being unpatentable over Berken, Richter'706, Bonnaure, Weaver, and Dezonno. Applicants respectfully traverse the rejections.

With respect to independent claims 43 and 51, Applicants respectfully note that the rejections of claims 43 and 51 are based on Berken, Richter'706, and

Bonnaure, that claims 43 and 51 recite language relating to the claimed “database” aspect that is similar to that recited by claims 22, 28, 29, 36, and 47, and that the Office relies on the same portions of Berken, Richter’706, and Bonnaure, and the same arguments in rejecting claims 43 and 51 as set forth in rejecting that aspect of claims 22, 28, 29, 36, and 47. Applicants have shown that the proposed combination of Berken, Richter’706, and Bonnaure does not teach aspects common to claims 22, 28, 29, 36, 43, 47, and 51. Further, the Office has not asserted that Harrison, Weaver, Perkins, Cripps, and/or Dezonno, taken alone or in combination remedy the shortcomings of the Berken, Richter’706, and Bonnaure references, set forth above. Therefore, Applicants respectfully submit that the Office has not shown that the proposed combinations of Berken, Richter’706, and Bonnaure, with Harrison, Weaver, or any of the other cited references, teaches, suggests, or discloses all aspects of Applicants claims 43 and 51, as required by M.P.E.P. §2142 and §2143.03. Therefore, Applicants respectfully submit that claims 43 and 51 are not rendered unpatentable by the cited art, and that claims 43 and 51, and any claims that depend therefrom, are allowable over the proposed combinations of references for at least the reasons set forth above.

With respect to claims 23, 24, 27, 30, 31, 35, 37, 38, 42, 44-46, 48, 49, and 52-56, and 74-80, Applicants respectfully submit that claims 23, 24, 27, 30, 31, 35, 37, 38, 42, 44-46, 48, 49, 52-56, and 74-80 depend from independent claims 22, 28, 29, 36, 43, 47, and 51 that have been shown to be allowable over the cited art. Applicants respectfully submit that claims 23, 24, 27, 30, 31, 35, 37, 38, 42, 44-46, 48, 49, 52-56, and 74-80 are therefore also allowable for at least the reasons set forth above with respect to their respective independent claims 22, 28, 29, 36, 43, 47, and 51.

With further respect to claims 74-80, Applicants respectfully submit that claim 74 recites, in part, “[t]he system of claim 22, wherein a user is prompted to select delivery of voice to the called party by one of the circuit switched network and the packet-based network, if such prompting is indicated by a user defined parameter.” Claims 75-80 recite similar language. Applicants respectfully submit that the cited art does not teach all aspects of claim 74.

Applicants respectfully submit that the Office cites over a full page of Dezonno, but fails to specifically identify and explain, **as required by M.P.E.P. §2142**, what of the cited portions of Dezonno teaches Applicants' claim 74, **and how**. M.P.E.P. §2142 clearly recognizes that "[t]he examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness," that "[t]he key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious," and that "the analysis supporting a rejection under 35 U.S.C. 103 **should be made explicit**." M.P.E.P. §2142 also recognizes that "rejections on obviousness cannot be sustained with mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness."

Applicants' claim 74 recites "wherein a user is prompted to select delivery of voice to the called party by one of the circuit switched network and the packet-based network, if such prompting is indicated by a user defined parameter." The Office admits that "Neither Berken nor Richter and Bonnaure explicitly discloses a user is "*prompted*." See February 3, 2011 at page 22. Applicants respectfully submit that the deficiencies of the proposed combination of Berken, Richter'706, and Bonnaure are not limited simply to "prompted," as demonstrated above, that the Office is oversimplifying the differences, and fails to address all words in the claim. Applicants respectfully submit that the Office has not shown where the cited art teaches the remaining aspects of claim 74. Applicants have shown above that Bonnaure does not teach what is asserted in this rejection. Further, although the Office asserts that elements of FIG. 1 and FIG. 2 teach Applicants' claim 74, there is nothing in FIG. 1 or FIG. 2 that makes any mention or suggestion of prompting a user, as claimed.

In addition, Applicants respectfully submit that the Office does not explain what of Dezonno is being identified as corresponding to Applicants' claimed "prompt a user," and how Dezonno teaches how a "telephone number or name" entered by a user, as in Dezonno, indicates that "prompting" should occur. Of the cited portions of Dezonno, only the text of claim 9 at col. 7, lines 25-32 mentions prompting, when it recites:

9. The method as recited in claim 1 wherein the step of prompting the computer user to enter the call request comprises the step of

prompting the computer user to enter a name of the computer user; and

wherein the method comprises the step of indicating to the agent the name of the computer user before establishing voice communications between the agent and the computer user.

The Office, however, does not explain how the suggested “telephone number or name” indicates that a prompt of the user is to occur, in the manner claimed. **Applicants again respectfully request that the Office explain, as required by M.P.E.P. §2142, how any portion of Dezonno teaches, suggests, or discloses Applicants’ feature** to “wherein a user is prompted to select delivery of voice to the called party by one of the circuit switched network and the packet-based network, if such prompting is indicated by a user defined parameter.” Instead, Dezonno simply discloses “prompting the computer user to enter a name of the computer user.” In other words, Dezonno teaches prompting a user to enter their name, and does not teach “prompt a user to select delivery of voice to the called party by one of the circuit switched network and the packet-based network, if such prompting is indicated by a user defined parameter.” Indeed, there is nothing in the text of Dezonno that even mentions “prompt[ing]” a user, even those sections describing cited FIG. 1 and FIG. 2, let alone as recited by Applicants’ claim 74. Dezonno only mentions “prompting” in the claims, which do not teach, suggest, or disclose the subject matter of Applicants’ claim 74. Therefore, Applicants respectfully submit that Dezonno does not remedy the admitted shortcoming of Berken, Richter, and Bonnaure with respect to claim 74, that claim 74 is not rendered unpatentable by the proposed combination of Berken, Richter, Bonnaure, and Dezonno, and that claim 74 is independently allowable over the cited art for at least the reasons set forth above. Applicants further respectfully submit that claims 75-80 recite similar language, were rejected over the same art for the same

reasons, and are therefore also independently allowable over the cited art for at least the reasons set forth above.

Applicants respectfully note that this rejection over the Dezonno reference relies on Dezonno for the same subject matter as the rejection that appeared in the Office action of August 17, 2010, and that the Applicants demonstrated in the response filed November 17, 2010 that the Dezonno does not teach what was asserted with respect to claims 74-80. The Office failed to even respond to Applicants' earlier arguments in the instant Office action. Applicants respectfully request that the Office address the substance of Applicants' arguments, should the Office maintain the rejection.

Therefore, for at least the reasons set forth above, Applicants respectfully request that the rejections of claims 23, 24, 27, 30, 31, 35, 37, 38, 42-46, 48, 49, 51-56, and 74-80 under 35 U.S.C. §103(a) be reconsidered and withdrawn.

III. The Proposed Combination Of Berken, Hutton, And Reimer Does Not Render Claims 60-62 And 68-73 Unpatentable

Claims 60-62 and 68-73 were rejected under 35 U.S.C. §103(a) as being unpatentable over Berken in view of Hutton, and further in view of Reimer. Applicants respectfully traverse the rejection.

With regard to independent claim 60, Applicants respectfully submit that claim 60 recites "[o]ne or more circuits for use in a handheld communication device supporting the exchange of voice over a communication network, the one or more circuits comprising: at least one interface to circuitry for transmitting and receiving over a radio frequency channel, packets comprising packetized digital voice data according to a packet protocol, wherein a packet is a unit of information transmitted as a whole from one device to another over the communication network." In addition, claim 60 recites that the "at least one processor" comprises "at least one processor operably coupled to the at least one interface, the at least one processor operating to, at least, convert analog voice signals at a first user location to first digital voice data; packetize

the first digital voice data according to the packet protocol to produce first digital voice data packets, wherein the first digital voice data packets comprise destination information used for routing the first digital voice data packets through the communication network to a second user, and wherein the first digital voice data is not packetized for transmission when representative of audio signals below a predetermined threshold level.” Claim 60 also requires that the “at least one processor” operates to “compare a destination address to a database having at least one entry comprising user defined call routing information and at least one associated destination address; cause delivery of voice to a called party by a user selected one of a circuit switched network and a packet-based network according to a destination address of the called party and the database; wirelessly transmit, in accordance with a wireless communication protocol, the first digital voice data packets.” Claim 60 further requires that the “at least one processor” operates to “wirelessly receive, in accordance with the wireless communication protocol, second digital voice data packets; depacketize the second digital voice data packets to produce second digital voice data; and convert the second digital voice data to analog voice signals at the location of the first user.” Applicants respectfully maintain that the Office has not shown that the cited art teaches all aspects of claim 60, and has therefore not established a *prima facie* case of obviousness with respect to claim 60 or any claims that depend therefrom.

Initially, Applicants respectfully note that claim 60 recites, in part, “compare a destination address to a database having at least one entry comprising user defined call routing information and at least one associated destination address,” and “cause delivery of voice to a called party by a user selected one of a circuit switched network and a packet-based network according to a destination address of the called party and the database.” **Applicants respectfully submit that the Office fails to even address these aspects of claim 60 in this repeated rejection.** See Office action of February 3, 2011 at pages 26-29 and Office action of August 17, 2010 at pages 26-29. **Therefore, for at least this reason, Applicants respectfully submit that a *prima facie* case of obviousness has not been established, and that claim 60 and its dependent**

claims are allowable over the cited art for at least this reason alone. Applicants respectfully submit that claim 60 is allowable for at least an additional reason.

The Office recognizes the following shortcomings of Berken and Hutton, at page 28 of the February 3, 2011 Office action and page 29 of the August 17, 2010 Office action:

Neither Berken nor Hutton explicitly discloses the first digital voice data is "not transmission [sic] when representative of audio signals below a predetermined threshold level". However, Reimer discloses the first digital voice data is not packetized for transmission when representative of audio signals below a predetermined threshold level (see FIG. 5, Steeps [sic] 52,54,55,58; speech digital data is not framed/packetized for transmission by waiting when speech signal is lower than predetermined threshold; see 6, line 10-32).

To begin, **Applicants respectfully maintain that the Office has not even asserted that the proposed combination of Berken and Hutton teaches or suggests Applicants' claim feature "wherein the first digital voice data is not packetized for transmission when representative of audio signals below a predetermined threshold level."** Applicants' claim does not recite "not transmission when representative of audio signals below a predetermined level," as suggested by the Office. The Office seemingly recognizes the full detail of claim 60, however, by stating that the combination of Berken and Hutton does not teach at least this aspect of claim 60, when the Office states "[h]owever, Reimer discloses the first digital voice data is not packetized for transmission when representative of audio signals below a predetermined threshold level...." The Office then goes to assert, in part, that "FIG, Steeps [sic] 52, 54, 55 [sic, 56], 58" teach "speech digital data is not framed/packetized for transmission by waiting when speech signal is lower than predetermined threshold." Applicants respectfully disagree, and now review the cited portion of Reimer at col. 6, lines 10-32, which describes cited FIG. 5. The cited portion of Reimer at col. 6, lines 10-32 is reproduced below:

Referring to FIG. 5, an input signal is sampled at 50 in frames of approximately 25 milliseconds until speech is detected at 52 by receipt of two consecutive frames of non-zero zero-crossings, whereupon execution of the game program is interrupted at 54. Sampling then continues until either a high frequency frame (i.e., a frame having a number of zero-crossings which exceeds a preselected threshold) is detected or four low frequency frames are detected. That frame or collection of frames is treated as a first or "beginning" portion of the word and is characterized as high frequency or low frequency at 56 depending upon whether a high frequency frame was detected. The program then "waits" an additional six frames at 58 and 60. The first non-zero zero-crossing frame thereafter marks the beginning of the second or "ending" portion of the word and its frequency determines the frequency level (i.e., high or low) at 62 and 64 of the second word portion. Sampling continues until the end of speech is detected by receipt of five consecutive frames of zero zero-crossings at which point the command is "recognized" by the frequency level of the constituent portions and the appropriate command issued at 66, 68, 70, and 72.

(bold and underline added)

The cited portion of Reimer shown above teaches that an input signal is sampled in "frames" of approximately 25 milliseconds. While the Applicants neither agree nor disagree, the Office equates Applicants' "packetiz[ation]" with the "framing" of Reimer. See August 17, 2010 Office action at page 29. Reimer teaches that when speech is detected, execution of a game program is interrupted, but sampling continues. When a "high-frequency frame" or four "low frequency frames" are detected, that frame or collection of frames is treated as a first or "beginning" portion of a word and is characterized as high frequency or low frequency depending upon whether a high frequency frame was detected. Reimer teaches that the game program then waits an additional six frames. Thus, Reimer teaches that framing of speech samples is still occurring. Reimer goes on to teach that the first non-zero zero-crossing frame thereafter marks the beginning of the second or "ending" portion of the word and its frequency determines the frequency level (i.e., high or low) at 62 and 64 of the second

word portion. Reimer also explains that sampling continues until the end of speech is detected by receipt of five consecutive frames of zero zero-crossings at which point the command is "recognized" by the frequency level of the constituent portions and the appropriate **command** issued.

Applicants respectfully note that while Reimer states that "sampling continues until the end of speech," Reimer does not state that sampling ends at that point, nor does Reimer state that framing ends at any point. Indeed, Reimer teaches that "the end of speech is detected by receipt of five consecutive **frames** of zero zero-crossings," thus framing must be occurring to detect the end of speech. Therefore, for at least these reasons, Applicants respectfully submit that it is **not true** that Reimer teaches "speech digital data is not framed/packetized for transmission by waiting when speech signal is lower than predetermined threshold," as asserted by the Office. Indeed, Reimer is quite clear that framing, which the Office seemingly associates with Applicants' packetization, is occurring throughout the process of FIG. 5, as demonstrated in the cited portion of Reimer at col. 6, lines 10-32. Therefore, Applicants respectfully submit that Reimer does not teach, suggest, or disclose "the first digital voice data is not packetized for transmission when representative of audio signals below a predetermined threshold level," as asserted by the Office. Applicants respectfully submit that Reimer therefore does not remedy the admitted shortcomings of Berken and Hutton, and that claim 60 is allowable over the proposed combination of Berken, Hutton, and Reimer, for at least this reason. Applicants believe that claim 60 is allowable over the cited art for at least an additional reason.

Applicants respectfully submit that Applicants' claim 60 recites, in part, "wherein the first digital voice data is not packetized for transmission when representative of audio signals below a predetermined threshold level." Applicants further respectfully submit that Applicants' claim 60 recites that "transmission" is to "wirelessly transmit, in accordance with a wireless communication protocol." Reimer, however, fails to teach transmission of the framed speech data, and instead teaches that "[s]ampling continues until end of speech is detected by receipt of five consecutive frames of zero zero-crossings at which point the **command** is "recognized" by the frequency level of the

constituent portions and the appropriate **command** issued at 66, 68, 70, 72.” Thus, Reimer teaches recognition and issuance of a “command,” and fails, however, to teach, suggest, or disclose that framed speech is transmitted, let alone “wirelessly transmit[ted], in accordance with a wireless communication protocol,” as claimed. Therefore, Applicants respectfully submit that Reimer does not teach, suggest, or disclose at least this aspect of claim 60 that the Office admitted is also not disclosed by either Berken or Hutton, that the propose combination of Berken, Hutton, and Reimer therefore cannot teach, suggest, or disclose at least this aspect of claim 60, and that claim 60 is allowable over the cited art for at least this additional reason.

Therefore, for at least the reasons set forth above, Applicants respectfully submit that the Office has not established a *prima facie* case of obviousness with respect to claim 60, as required by M.P.E.P. §2142, that claim 60 is not rendered unpatentable by the cited art, and that claim 60, and any claims that depend therefrom, are allowable over the proposed combination of Berken, Hutton, and Reimer. Accordingly, Applicants respectfully request that the rejection of claims 60-62 and 68-73 under 35 U.S.C. §103(a) be reconsidered and withdrawn.

IV. The Proposed Combination Of Berken, Hutton, And Reimer With Any Of Lewen, McKee, Cripps And Dezonno Does Not Render Claims 63-67 And 81 Unpatentable

Claims 63-65 were rejected under 35 U.S.C. §103(a) as being unpatentable over Berken, Hutton, and Reimer, in further view of Lewen. Claim 66 was rejected under 35 U.S.C. §103(a) as being unpatentable over Berken, Hutton, Reimer, and Lewen, in further view of McKee. Claim 67 was rejected under 35 U.S.C. §103(a) as being unpatentable over Berken, Hutton, and Reimer, in further view of Cripps. Claim 81 was rejected under 35 U.S.C. §103(a) as being unpatentable over Berken, Hutton, and Reimer, in further view of Dezonno. Applicants respectfully traverse the rejections.

Applicants respectfully submit that claims 63-67 and 81 depend from independent claim 60 that has been shown to be allowable over the cited art.

Applicants respectfully submit that claims 63-67 and 81 are therefore also allowable for at least the reasons set forth above with respect to claim 60. Applicants respectfully submit that claim 81 is allowable for at least an additional reason.

With specific regard to claim 81, Applicants respectfully submit that the Office cites over a full page of Dezonno, but fails to specifically identify and explain, **as required by M.P.E.P. §2142**, what of the cited portions of Dezonno teaches Applicants' claim 81, **and how**. M.P.E.P. §2142 clearly recognizes that "[t]he examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness," that "[t]he key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious," and that "the analysis supporting a rejection under 35 U.S.C. 103 **should be made explicit**." M.P.E.P. §2142 also recognizes that "**rejections on obviousness cannot be sustained with mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.**"

Applicants' claim 81 recites "prompt a user to select delivery of voice to the called party by one of the circuit switched network and the packet-based network, if such prompting is indicated by a user defined parameter." The Office admits that "Berken and Hutton fails to explicitly disclose a user is *"prompted"*." See August 17, 2010 Office action at page 34. Applicants respectfully submit that the deficiencies of Berken and Hutton are not limited to "prompted." Applicants respectfully submit that the Office has not shown where the cited art teaches the remaining aspects of claim 81.

In addition, Applicants respectfully submit that the Office does not explain what of Dezonno is being identified as corresponding to Applicants' claimed "prompt a user," and how Dezonno teaches how a "telephone number or name" entered by a user, as in Dezonno, indicates that "prompting" should occur. Of the cited portions of Dezonno, only the text of claim 9 at col. 7, lines 25-32 mentions prompting, when it recites:

9. The method as recited in claim 1 wherein the step of prompting the computer user to enter the call request comprises the step of

prompting the computer user to enter a name of the computer user; and

wherein the method comprises the step of indicating to the agent the name of the computer user before establishing voice communications between the agent and the computer user.

The Office, however, does not explain how the suggested “telephone number or name” indicates that a prompt of the user is to occur. Applicants respectfully request that the Office explain, as required by M.P.E.P. §2142, how any portion of Dezonno teaches, suggests, or discloses Applicants’ feature to “prompt a user to select delivery of voice to the called party by one of the circuit switched network and the packet-based network, if such prompting is indicated by a user defined parameter.” Instead, Dezonno simply discloses “prompting the computer user to enter a name of the computer user.” In other words, Dezonno teaches prompting a user to enter their name, and does not teach “prompt a user to select delivery of voice to the called party by one of the circuit switched network and the packet-based network, if such prompting is indicated by a user defined parameter.” Indeed, there is nothing in the text of Dezonno that even mentions “prompt[ing]” a user, let alone as recited by Applicants’ claim 81. Dezonno only mentions “prompting” in the claims, which do not teach, suggest, or disclose the subject matter of Applicants’ claim 81. Therefore, Applicants respectfully submit that Dezonno does not remedy the admitted shortcoming of Berken and Hutton with respect to claim 81, that claim 81 is not rendered unpatentable by the proposed combination of Berken, Hutton, and Dezonno, and that claim 81 is independently allowable over the cited art for at least the reasons set forth above.

Accordingly, Applicants respectfully request that the rejections of claims 63-67 and 81 under 35 U.S.C. §103(a) be reconsidered and withdrawn.

V. Obviousness Guidelines

Additionally, referring to the PTO’s published guidelines of October 10, 2007, with regard to the procedure to be followed by Examiners when making an obviousness

rejection, the guidelines recite **seven rationales** supporting an obviousness rejection and give specific findings that **must be made** by an Examiner in order for the Examiner to use the rationale to support a finding of obviousness. These findings are **not optional and must be articulated by the Examiner for the rationale to apply**. The seven rationales are shown below.

(A) Combining prior art elements according to known methods to yield predictable results;

(B) Simple substitution of one known element for another to obtain predictable results;

(C) Use of known technique to improve similar devices (methods, or products) in the same way;

(D) Applying a known technique to a known device (method, or product) ready for improvement to yield predictable results;

(E) “Obvious to try”—choosing from a finite number of identified, predictable solutions, with a reasonable expectation of success;

(F) Known work in one field of endeavor may prompt variations of it for use in either the same field or a different one based on design incentives or other market forces if the variations would have been predictable to one of ordinary skill in the art;

(G) Some teaching, suggestion, or motivation in the prior art that would have led one of ordinary skill to modify the prior art reference or to combine prior art reference teachings to arrive at the claimed invention.

If the present rejection is maintained, or any new rejection based on obviousness is asserted, however, the Applicant respectfully requests that any subsequent action: 1) **identify the specific Rationale** (i.e., by explicitly indentifying one of **A through G** noted above) in the Guidelines that the Examiner is using to support the obviousness rejection so that the Applicants may more clearly address the Examiner’s concerns, and

2) **state on the record** the **required** factual findings to support the Rationale that the Examiner has chosen.

As indicated recently, “[i]t is important for Office personnel to recognize that when they do choose to formulate an obviousness rejection using one of the rationales suggested by the Supreme Court in *KSR* and discussed in the *2007 KSR Guidelines*, they are to adhere to the instructions provided in the MPEP regarding the **necessary factual findings**.” See September 1, 2010 Examination Guidelines Update, 75 Fed. Reg. 169.

Indeed, “if a rejection has been made that omits one of the required factual findings, and in response to the rejection a practitioner or inventor points out the omission, Office personnel **must** either withdraw the rejection, or repeat the rejection **including all the required factual findings**.” See *id.*

Further, “[s]imply stating the principle ... without providing an explanation of its applicability to the facts of the case at hand is generally not sufficient to establish a *prima facie* case of obviousness.” See *id.*

“[T]he Board cannot simply reach conclusions based on its own understanding or experience – or on its assessment of what would be basic knowledge or common sense. Rather, the Board must point to some concrete evidence in the record in support of these findings.” See *In re Zurko*, 258 F.3d 1379, 1386 (Fed. Cir. 2001).

Thus, as indicated above, the Applicants respectfully request that any subsequent Office Action that asserts an obviousness rejection **specifically identify** which rationale it is using, and then provide **the required factual findings** with respect to the rationale.

Appln. No. 10/701,865
Filed: November 5, 2003
Reply to Office action mailed February 3, 2011
Amendment filed May 3, 2011

Conclusion

In general, the Office Action makes various statements regarding the claims and the cited references that are now moot in light of the above. Thus, Applicants will not address such statements at the present time. However, Applicants expressly reserve the right to challenge such statements in the future should the need arise (e.g., if such statements should become relevant by appearing in a rejection of any current or future claim).

The Applicants believe that all of pending claims 22-81 define patentable subject matter and are in condition for allowance.

Should the Examiner disagree or have any questions regarding this submission, or have any suggestions to move the Application to allowance, the Applicants invite the Examiner to telephone the undersigned at (312) 775-8000.

A Notice of Allowability is courteously solicited.

The Commissioner is hereby authorized to charge any additional fees required by this communication, or credit any overpayment, to Deposit Account No. 13-0017.

Respectfully submitted,

Dated: May 3, 2011

/Kevin E. Borg/
Kevin E. Borg
Agent for Applicants
Reg. No. 51,486

McANDREWS, HELD & MALLOY, LTD.
500 West Madison Street
Suite 3400
Chicago, Illinois 60661
Phone (312) 775-8000
Facsimile (312) 775-8100